IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO: 20638 of 1996

Between:

Kandi Trimurthulu, S/o Sanyasi,
R/o H.No.8-2-36, Brodipet, 5th St., Palakollu, West Godavari District

.... PETITIONER

AND

1 The Labour Court, Guntur, represented by its Presiding Officer.
2 Kavali Sairam, S/o Swami naidu,
Kavalivari Veedhi, Opp to House of Mr.Jakkamsetti Venkateswara

Rao, Narsapur, W.G.Dist.
3 The Divisional Manager, A.P.S.R.T.C., Eluru, W.G.Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 1st respondent and issue appropriate order, direction or a writ, particularly one in the nature of a writ of certiorari and quash the award passed by the 1st respondent in I.D.No.36/1990 dt.26-12-1995, published on 24-8-96,

and grant relief of reinstatement with back wages and other attendant benefits and pass such other order or orders in the interests of justice.

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for Respondent No.1 : The G.P for Labour

Counsel for Respondent No.2 : None Appeared

Counsel for the Respondent No.3: MR.VENKATESWARLU POSANI

S.C for A.P.S.R.T.C.

The Court made the following:

O R D E R: -

The petitioner was working as a Cleaner since 1977 in a private bus belonging to the second respondent. The bus on the basis of a permit was plying between Palakollu and Toleru. In 1984, the bus in which the petitioner was working as a cleaner was discarded as it has become old and the second respondent and his family purchased a new bus bearing No. ATS-9468. The petitioner was working as a cleaner in the new bus on the same route from 1984 onwards. The route was nationalized on 1.10.1988, and the permit of the second respondent stood extinguished. As a humanitarian gesture, the Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C) issued circulars for absorption of Drivers and Conductors working in the vehicles of private operators on nationalized routes into the service of the A.P.S.R.T.C. As the petitioner's name was neither sponsored by the second respondent nor was his case considered for absorption, he made representations. On the basis of his representations to the second respondent, he appeared at an Interview, but had no information thereafter. He thereupon filed I.D.No.36/90 on the file of Labour Court, Guntur under Section 2A(2) of the Industrial Disputes Act, 1947 (for short `the Act') setting out a plurality of grievances *inter alia* contending that the second respondent-private management did not extend to him a number of benefits he was entitled to. He also

claimed absorption into the service of the A.P.S.R.T.C on the basis of his track record of having worked as a Cleaner under private management since 1977.

2. The A.P.S.R.T.C-Management resisted the petitioner's claim contending that there were no circulars of the Corporation permitting absorption of Cleaners and that the benefits of absorption were confined only to the categories of drivers and conductors. As against this claim of the management, the petitioner placed before the Labour Court Ex.W-6, which was a Xerox copy of the Order of the Divisional Manager of the A.P.S.R.T.C, Visakhapatnam permitting absorption of the displaced casual cleaners. The Labour Court rejected the claim of the petitioner in so far as his request for absorption in to the service of the A.P.S.R.T.C, is concerned. The Labour Court found that there were no circulars of the A.P.S.R.T.C extending the benefit of regularization in the A.P.S.R.T.C service to the category of displaced cleaners. The circulars placed for consideration of the Labour Court were only concerned with the absorption benefits to Drivers and Conductors. The rejection of the petitioner's claim by the Labour Court therefore suffers from no infirmities, warranting interference. That apart, it requires to be noticed that the claim of the petitioner is not the one that falls to be adjudicated by the Labour Court under Section 2A(2) of the Act as amended by the State of A.P. Non consideration of the petitioner's claim for absorption in the A.P.S.R.T.C service does not constitute discharge, dismissal, retrenchment or termination within the meaning of Section 2A (2) of the Act. The Labour Court was therefore inherently incompetent to have taken up for adjudication the claim of the petitioner.

3. In any view of the matter, there are no merits in the writ petition, and it is accordingly dismissed. No costs.

Sd/-

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Presiding Officer, Labour Court, Guntur.
2 The divisional Manager, A.P.S.R.T.C., Eluru, W.G.Dist.

3 2 CCs to G.P for Labour, High Court of A.P.,Hyderabad(OUT)

4. 2 CD copies

RAR/PVSN